CIVIL NO.

APPENDIX B, for PETITION 82-157
and INJUNCTION A-102

MARK A. SMITH v. AL OLSON and
MARCH FONG EU

RECEIVED
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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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SUPREME COURT, U.S.

MARK A. SMITH, Petitioner, vs. AL OLSON, REGISTRAR OF VOTERS OF ORANGE COUNTY and MARCH FONG EU, SECRETARY OF STATE OF THE STATE OF CALIFORNIA, Respondents.	CIVIL NO.

PETITION FOR WRIT OF MANDATE, WITH SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

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LAW OFFICES OF MARK A. SMITH A PROFESSIONAL CORPORATION

IN THE SUPREME COURT OF THE

STATE OF CALIFORNIA

MARK A. SMITH, Petitioner, vs. AL OLSON, REGISTRAR OF VOTERS OF ORANGE, and MARCH FONG EU, SECRETARY OF STATE OF THE STATE OF CALIFORNIA, Respondents.	CIVIL NO.

PETITION FOR WRIT OF MANDATE

Petitioner MARK A. SMITH petitions this Court for a writ of mandate directed to respondent AL OLSON, Registrar of Voters of Orange County and MARCH FONG EU, Secretary of State of the State of California and by this verified Petition alleges as follows:

1. Petitioner, MARK A. SMITH, is a registered Independent Voter in the State of California and County of Orange, and seeks to qualify as a candidate for Representative in Congress for Congressional District 43.

2. Respondent AL OLSON is Registrar of Voters of Orange County, State of California, and is responsible for issuing Nomination Papers and election supervision in Orange County.

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3. Respondent MARCH FONG EU is Secretary of State of California, and is responsible for the direction of election activities in the State of California and certifies candidates for the various elective offices in the State of California.

4. For an independent candidate, California Elections Code §6830(c) requires that:

> "Each candidate or group of candidates shall submit a nomination paper which shall contain:
>
> (c) A statement that the candidate is not, and was not at any time during the one year preceding the immediately preceding primary election at which a candidate was nominated for the office mentioned in the nomination paper, registered as affiliated with a political party qualified under the provisions of Section 6430 . . . ."

5. On June 7, 1982 the respondent Registrar of Voters through Deputy Registrar Charlene Jaggers refused to issue Independent Candidate Nomination papers to petitioner MARK A. SMITH because Petitioner was registered as affiliated with a political party qualified under the provisions of Section 6430 of the California Elections Code within one year preceding the June 8, 1982 primary election. Petitioner was a registered Independent before the new 43rd district was approved, however.

6. Congressional District 43 consists of a part of San Diego County and a part of Orange County.

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7. Congressional District 43 was created by reapportionment statutes revising the boundaries of the State's congressional districts to conform to the results of the 1980 federal census. The statutes (Election Code § 30030-30032) were signed by the governor and enrolled into law by the Secretary of State on September 16, 1981.

8. Challenges to the reapportionment statutes began immediately (Assembly v. Deukmejian, 30 Cal. 3d 638, 644) and litigation ensued (Assembly v. Deukmejian, 30 Cal. 3d 638).

9. In the case of Assembly v. Deukmejian, 30 Cal. 3d 638, decided January 28, 1982, the California Supreme Court stated at page 657 that as a result of the referanda challenging the statutes having been filed "the new districts, although presumptively valid, are not now in effect." In order for the State's election machinery to operate, the Court adopted the 1981 reapportionment statutes as a temporary reapportionment plan for the 1982 primary and general election.

10. On April 26, 1982 the United States Supreme Court dismissed the appeal from the ruling of the California Supreme Court (Republican National Committee, v. Burton, Phillip, et al., 42 CCH S. Ct. Bull p. B2183). Petitioner, Mark A. Smith, was registered as an Independent Voter prior to April 26, 1982.

11. Enforcement of Elections Code § 6830(c) by Respondent Registrar of Voters absolutely denies a ballot position to Petitioner MARK A. SMITH as an independent candidate because within one year prior to the June 8, 1982 primary election, Petitioner was registered as affiliated with a qualified political party.

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12. This places an unconstitutional burden on Petitioner's independent candidacy - and therefore effectively burdens as well the rights of potential supporters and voters to associate for political purposes and to vote -- because Petitioner is required to have taken affirmative action toward his candidacy four months before the district was created by statute, September 16, 1981; eight months before the district was adopted by the California Supreme Court for purposes of the 1982 primary and general election, January 28, 1982; and 11 months before the California Supreme Court decision was left intact by the United States Supreme Court, April 26, 1982. Petitioner would have to have made his decision about independent candidacy before he knew there was an office for Representative in Congress for Congressional District 43, before he knew what the significant election issues would be.

13. For an independent candidate, California Election Code § 6831 provides in part:

> "Nomination papers for an office, other than a statewide office, shall be signed by the voters of the area for which the candidate is to be nominated, not less in number than 3 percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election."

14. Congressional District 43 was created after the last general election.

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15. Petitioner, through counsel (see Exhibit "A"), inquired of the respondents numerous times what would be the basis for determining the number of signatures required to satisfy this statute. On June 7, 1982 Petitioner learned that the number of nomination signatures required for an independent candidate for the office of Representative in Congress for Congressional District 43 is eight thousand two hundred seventy nine (8,279).

16. That number was not determined in the manner provided by Elections Code § 6831. Respondent Secretary of State determined the number by adding together all the registered voters in California as of the General Election in 1980. The sum was then divided by 45. Forty-five represents the number of Congressional districts now in California. The quotient was then "adjusted" by the personnel of the Secretary of State's office per their opinion and with reference to the present number of registered voters within the present districts. The number of signatures required for independent nominations was then determined. For these reasons Election Code § 6831 has not been complied with, and the signature requirement cannot be enforced.

17. There is no plain, speedy, and adequate remedy at law for Petitioner, other than the relief sought in this petition.

18. As a result of the attempted enforcement of Election Code § 6830(c) and 6831 by Respondents, Petitioner will sustain irreparable harm and damage in that Petitioner will not be issued independent candidate nomination papers and not be able to qualify as an independent candidate for the office of Representative in Congress for the Congressional District 43 and will not have his name placed on the

November 1982 general election ballot and the voters within the State of California, County of San Diego and County of Orange will be permanently deprived of the intelligent exercise of their right to vote.

19. Petitioner seeks extraordinary relief from this Court in the first instance because the following circumstances render it proper and necessary that a writ issue from this Court:

(1) The issues presented affect the right to vote and the method of conducting elections which obviously are of great public importance.

(2) The deadline for filing independent nomination papers is August 6, 1982 and these issues require prompt resolution.

(3) Because of the opinion in Storer v. Brown, 415 U.S. 724, lower courts are unlikely to grant relief.

WHEREFORE, Petitioner prays that:

1. An alternative writ of mandate issue under the seal of this Court commanding respondents to issue Independent Candidate Nomination Papers to petitioner MARK A. SMITH;

2. That Respondents be permanently enjoined from enforcing the provisions of California Elections Code Section 6830(c) insofar as

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it requires that Petitioner as an independent candidate not have been registered as affiliated with a qualified political party one year before the primary election;

3. That Respondents refrain from enforcing the provisions of California Elections Code Section 6831.

4. For such other and further relief as the Court deems just.

Dated: June 10, 1982

LAW OFFICES OF MARK A. SMITH
A Professional Corporation

By Douglas M. Campbell
DOUGLAS M. CAMPBELL
Attorneys for Petitioner

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VERIFICATION OF MARK A. SMITH

I, the undersigned, say:

I am the Petitioner in this action. All facts alleged in the above document, not otherwise supported by citations to the record, exhibits, or other documents, are true of my own personal knowledge.

Executed on June 10, 1982, at Orange County, California.

I declare under penalty of perjury that the above is true and correct.

MARK A. SMITH, Petitioner

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DECLARATION OF DOUGLAS M. CAMPBELL

I, DOUGLAS M. CAMPBELL, declare and state;

1. I have personal knowledge of the facts hereinafter set forth and, if called as a witness, I could competently testify thereto.

2. I am an attorney licensed to practice law in the State of California. I am a member of the Law Offices of Mark A. Smith, A Professional Corporation, attorneys for the petitioner in this action.

3. On March 29, 1982, I telephoned the office of the Orange County Registrar of Voters. I spoke to an individual who identified herself as Charlene Jaggers. I was informed that Charlene Jaggers is a supervisor in the office of the Registrar of Voters. I asked Charlene Jaggers what was the number of signatures required for an independent candidate for the office of Representative in Congress for the new congressional district here in Orange County. She said she did not know and referred me to the "Chief Election Officer" at the office of the Secretary of State.

4. I also asked Charlene Jaggers what was the procedure for an individual to obtain Independent Nomination Papers. She told me that the individual must complete an information sheet and request the Independent Nomination Papers. The Deputy Registrar assisting the individual would then check the individual's voter registration. If the individual had been registered with a qualified political party within one year of the up-coming primary election, Independent

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Nomination Papers would be denied that individual.

5. On March 29, 1982, I telephoned the office of the Secretary of State and asked to speak to the "Chief Election Officer". I then spoke with an individual who identified himself as Ed Arnold. I asked Ed Arnold if Elections Code Section 6830(c) would be enforced for the office of Representative in Congress for Congressional District 43 even though the district had not existed for one year. He said he could not answer my question and referred me to Rick Maness and William Yee, attorneys in the office of the Secretary of State.

6. I then spoke with an individual who identified herself as the secretary of Mr. Maness and Mr. Yee. She told me they were not available at that time and took my phone number and said one of them would call me back.

7. On March 31, 1982, I spoke to William Yee on the telephone. On this date I spoke with Mr. Yee only about Elections Code Section 6830(c). He said the Registrar of Voters and the Secretary of State did not have power to waive the one-year requirement and that an individual seeking the status of an independent candidate, but presently barred by the provisions of Elections Code Section 6830(c), would have to seek judicial relief.

8. On April 13, 1982, I telephoned the office of the Secretary of State and again talked to an individual who identified himself as Ed Arnold. I asked Ed Arnold what would be the number of signatures required for an independent candidate for the office of Representative

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in Congress for Congressional District 43 to satisfy the three percent requirement of Elections Code Section 6831. He said he did not know and would call me back.

9. On April 16, 1982, an individual who identified himself as Ed Arnold telephoned me. He said it still had not been determined what the number of signatures required would be or how the office of the Secretary of State was going to determine what the signature requirement would be.

10. On May 12, 1982, I telephoned the office of the Secretary of State and asked to speak to Ed Arnold. I was informed by the individual who answered the phone that Ed Arnold was out of the office. I asked her what was the position of Ed Arnold and she told me that he was the Elections Assistant. I then asked if I could speak with William Yee. I then spoke with an individual who identified himself as William Yee. I asked him if it had been determined what would be the number of signatures required for an independent candidate for the office of Representative in Congress for Congressional District 43 to qualify pursuant to Elections Code Section 6831. He told me it had not yet been decided.

11. On June 7, 1982 in the Office of the Orange County Registrar of Voters, Deputy Registrar, Charlene Jaggers informed me that the number of signatures required for independent candidate nomination papers for this office was eight thousand two hundred seventy-nine (8,279). I asked Deputy Registrar Jaggers how that number was

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EXHIBIT "A"

determined. She informed me that she did not know and that it had been determined by the office of the Secretary of State.

12. On June 7, 1982, I telephoned the office of the Secretary of State and spoke to an individual who identified himself as Rick Maness. I asked Mr. Maness how the number eight thousand two hundred seventy-nine (8,279) had been determined as the number of signatures required for an independent candidate's nomination papers for Representative in Congress for Congressional District 43.

13. Mr. Maness told me that "we" added up all the registered voters in California as of the General Election in 1980. The sum was then divided by 45. Forty-five represented the number of Congressional districts now in California. The quotient was then "adjusted" proportionately among the Congressional districts according to the present number of registered voters within the present districts. The number of signatures required for independent nominations was then determined.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of June, 1982 at Orange County, California

Douglas M. Campbell

DOUGLAS M. CAMPBELL

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EXHIBIT "A"

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF MANDATE

STATEMENT OF FACTS

On June 7, 1982 Petitioner, a registered independent voter in Orange County, State of California, requested independent nomination papers from the Respondent Registrar of Voters, for the office of Representative in Congress for Congressional District 43. Independent nomination papers were denied Petitioner because within one year preceding the primary election to be held June 8, 1982, Petitioner was registered as affiliated with a qualified political party.

When independent nomination papers are issued, the candidate is required to obtain the signatures of three percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election. Congressional District 43 did not exist until after the last general election and the number of signatures required to qualify an independent candidate cannot be determined.

I.

THE SUPREME COURT OF THE STATE OF CALIFORNIA MAY ISSUE A WRIT OF MANDATE.

> "It may be issued by any court, except a municipal or justice court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specifically enjoins, as a duty resulting from an office, trust, or station; or to

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compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board or person."

Code of Civil Procedure, Section 1085.

"The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party beneficially interested."

Code of Civil Procedure, Section 1086.

II.

THE SUPREME COURT OF THE STATE OF CALIFORNIA HAS ORIGINAL JURISDICTION OF THIS PROCEEDING

"This court has 'original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.' [Cal. Const. art. VI, §10, see Cal. Rules of Court, rule 56a.) As we said recently in Jolicoeur v. Mihaly (1971) 5 Cal. 3d 565, 570, fn. 1 [96 Cal. Rptr. 697, 488 P.2d 1]: "We exercise such jurisdiction only in cases in which 'the issues presented are of great public importance and must be resolved promptly.' [Citation.] Cases affecting the right to vote and the method of conducting elections are obviously of great public importance. Moreover, the necessity of adjudicating the controversy before the election renders it moot usually

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warrants our bypassing normal procedures of trial and appeal."

Wenke, v. Hitchcock (1972), 6 Cal. 3d 746, 750

Petitioner challenges the constitutionality of the provisions of California law which impermissably burden Petitioner access to the ballot as an independent candidate. The right to become a candidate for public office is inextricably intertwined with the right to vote (Thompson v. Mellon, 9 Cal. 3d 96, 100).

The last day for filing Independent Nomination Papers is August 6, 1982, less than two months after the initiation of these proceedings. The issues are of great public importance and must be adjudicated promptly so that Petitioner's name will appear on the November 1982 general election ballot.

III

MANDAMUS IS A PROPER REMEDY.

"Mandamus is clearly the proper remedy for compelling an officer to conduct an election according to law. [Citations omitted]. Mandamus is also appropriate

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for challenging the constitutionality or validity of statutes or official acts."

Jolicoeur v. Mihaly (1971) 5 Cal. 3d 565, 570, fn. 2.

IV

ELECTIONS CODE SECTION 6380(c) BURDENS PETITIONER'S RIGHT TO RUN FOR PUBLIC OFFICE AND DOES NOT FURTHER A COMPELLING STATE INTEREST

"Each candidate or group of candidates shall submit a nomination paper which shall contain;

(c) a statement that the candidate is not, and was not at any time during the one year preceding the immediately preceding primary election at which a candidate was nominated for the office mentioned in the nomination paper, registered as affiliated with a political party qualified under the provisions of Section 6430. The statement required by this subdivision shall be omitted when no primary election was held to nominate candidates for the office to which the independent nomination paper is directed."

Elections Code section 6830(c).

A. THE RIGHT TO RUN FOR PUBLIC OFFICE IS A FUNDAMENTAL RIGHT.

"[T]he right to run for public office is as fundamental a right as is the right to vote, . . ."

Zeilenga v. Nelson (1971) 4 Cal. 3d 716, 723.

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"'[T]he right to vote would be empty indeed if it did not include the right of choice for whom to vote . . . But it does mean that in judging the validity of a restraint upon eligibility for elective office, we must be mindful that the restraint is upon the right to vote as well . . . . Far from being unrestricted, the power to prescribe qualifications for elective office is sharply limited by the constitutional guaranty of a right to vote . . . .'"

Zeilenga v. Nelson (1971) 4 Cal. 3d 716, 721, quoting Gangemi v. Rosengard (1965) 44 N.J. 166.

B. LEGISLATION THAT BURDENS A FUNDAMENTAL RIGHT MUST FURTHER A COMPELLING STATE INTEREST.

"[W]hen legislation burdens such a fundamental constitutional right, it is not enough that the legislative means rationally promote legitimate governmental ends. Rather,

"governmental action may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest. Shapiro v. Thompson, 394 U.S. [618, 634 (1969)]; United States v. Jackson, 390 U.S. 570, 582-583 (1968); Sherbert v. Verner, 374 U.S. 398, 406-409 (1963). And once it be determined that a burden has been placed upon a constitutional right, the onus of demonstrating that no less

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intrusive means will adequately protect compelling state interests is upon the party seeking to justify the burden. See Speiser v. Randall, 357 U.S. 513, 525-526 (1958.)"

Storer v. Brown (1973) 415 U.S. 724, 756-757, Brennan, J., dissenting.

C. ARGUMENT

Elections Code section 6830(c) was formerly Elections Code section 6830(d) (Supp. 1974). In the case of Storer v. Brown (1973) 415 U.S. 724, the appellants challenged as unconstitutional California's law that denies a ballot position to independent candidates who, at any time within 12 months prior to the immediately preceding primary election, were registered as affiliated with a qualified political party.

The United States Supreme Court held in Storer v. Brown that the State of California was not prohibited by the United States Constitution from enforcing the provisions of section 6830(c) (Supp. 1974), now section 6830(c), against the appellants. (Storer v. Brown, 415 U.S. 724, 728). The Court reasoned that the one-year disaffiliation provision furthered the State's interest in the stability of its political system.

"It protects the direct primary process by refusing to recognize independent candidates who do not make early plans to leave a party and take the alternative court to the ballot. It works against independent candidacies prompted by short-range political goals, pique, or personal quarrel. It is also a substantial

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> barrier to a party fielding an "independent" candidate to capture and lead off votes in the general election that might well go to another party."
>
> Storer v. Brown, 415 U.S. 724, 735.

Because the office of Representative in Congress for Congressional District 43 did not exist one year before the primary election at which a candidate will be nominated for this office, the reasoning of the majority in Storer v. Brown is not applicable.

First, Justice Brennan in footnote 2 of his dissenting opinion in Storer v. Brown, 415 U.S. 724, 759, notes that the State suggests no reliance upon the provision as being a substantial barrier to a party fielding an 'independent' candidate to capture and lead off votes. He states;

> "In any event, the prospect of such a misuse seems more fanciful than real and, as we said in Williams v. Rhodes, 393 U.S. 23, 33 (1968), '[N]o such remote danger can justify [an] immediate and crippling impact on . . . basic constitutional rights . . . ."

Second, Petitioner would have to have made "early plans" and take affirmative action towards independent candidacy not only before he knew what the significant election issues would be, but also even before he knew there would even be the office of Representative in Congress for Congressional District 43. Petitioner was a registered Independent before the new 43rd district was officially approved.

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Congressional District 43 was created by reapportionment statutes revising the boundaries of the State's congressional districts to conform to the results of the 1980 federal census. The statutes (Elections Code sections 30030-30032) were signed by the governor and enrolled into law by the Secretary of State on September 16, 1981. Challenges to the reapportionment statutes began immediately (Assembly v. Deukmejian, 30 Cal. 3d 638, 644) and litigation ensued. In the case of Assembly v. Deukmejian, 30 Cal. 3d 638, decided January 28, 1982, the California Supreme Court stated at page 657 that as a result of the referenda having been filed "the new districts, although presumptively valid, are not now in effect." In order for the State's election machinery to operate, the Court adopted the 1981 reapportionment statutes as a temporary reapportionment plan for the 1982 primary and general election. On April 26, 1982 the United States Supreme Court dismissed the appeal from the ruling of the California Supreme Court (Republican National Committee v. Burton, Phillip, et al., 42 CCH S. Ct. Bull. p. B2183.

The facts of this case illustrate how burdensome California's party disaffiliation rule can be. As late as April 26, 1982 a court ruling could have removed the office of Representative in Congress for Congressional District 43 from the 1982 general election ballot. If the statutes creating Congressional District 43 had gone unchallenged, the district would only have been in effect beginning September 16, 1981. In spite of these events occurring less than one year before the primary election at which a candidate will be nominated for this office, Petitioner is threatened with disqualification as a

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candidate because he did not take affirmative action towards independent candidacy more than one year before the June 1982 primary election, eleven months before there was a 43rd district.

V

ELECTIONS CODE SECTION 6831 IS UNENFORCEABLE

> "Nomination papers for a statewide office for which the candidate is to be nominated shall be signed by voters of the state equal to not less in number than 1 percent of the entire number of registered voters of the state at the time of the close of registration prior to the preceding general election. Nomination papers for an office, other than a statewide office, shall be signed by the voters of the area for which the candidate is to be nominated, not less in number than 3 percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election. Nomination papers for Representative in Congress, State Senator or Assemblyman, to be voted for at a special election to fill a vacancy, shall be signed by voters in the district not less in number than 500 or 1 percent of the entire vote case in the area at the preceding general election, whichever is less, nor more than 1,000."
>
> Elections Code section 6831.

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A. THE NUMBER OF SIGNATURES REQUIRED TO QUALIFY AN INDEPENDENT CANDIDATE CANNOT BE DETERMINED.

Petitioner seeks independent nomination candidacy for the office of Representative in Congress for Congressional District 43, which is "other than a statewide office,". Section 6831 requires Petitioner's nomination papers be signed by the voters of the area not less in number than 3 percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election.

Congressional District 43 has been created since the last general election.

Independent nomination papers shall be prepared, circulated, signed, verified and left with the respondent Registrar of Voters no later than 5:00 P.M. 88 days before the election. In this case August 6, 1982. (Election Code section 6833). Because Congressional District 43 falls within two counties (Orange and San Diego), the Secretary of State must determine the minimum number of signatures required to qualify the candidate (Elections Code section 6833).

The Secretary of State has determined the number of signatures required to qualify the independent candidate by a scheme described in the petition and in Exhibit "A". This scheme is not a method authorized by statute.

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Because there was no district at the close of registration prior to the preceding general election, the number of signatures required to qualify Petitioner as an independent candidate cannot be determined.

B. THE OLD DISTRICTS CANNOT BE USED TO DETERMINE THE NUMBER OF SIGNATURES REQUIRED

> "The old districting scheme, ... no longer meets the one-person, one-vote requirement embodied in the equal protection clauses of our state and federal Constitutions. (U.S. Const., 14th Amend.; Cal. Const., art. I, § 7.) . . . the population changes revealed by the 1980 census demonstrate that the old districts contain population disparities that are clear violations of the state and federal Constitutions' one-person, one-vote mandate. The old districts are, therefore, no longer valid. Moreover, the old congressional district boundaries have been repealed."
>
> Assembly v. Deukmejian, 30 Cal. 3d 638, 637.

CONCLUSION

Elections Code section 6830(c) unconstitutionally burdens Petitioner's right to run for public office, and the rights of the electorate, because Petitioner did not take action towards independent candidacy eleven months before Congressional District 43 was even created.

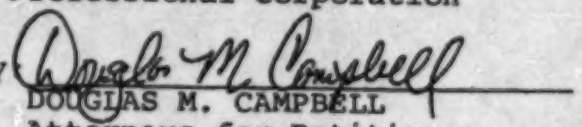
Elections Code section 6831 is unenforceable because there was no Congressional District 43 at the close of registration prior to the

LAW OFFICES OF MARK A. SMITH A PROFESSIONAL CORPORATION 24581 RAYMOND WAY SUITE 150

preceding general election from which to determine the number of signatures required to qualify a candidate.

Respectfully submitted,

LAW OFFICES OF MARK A. SMITH
A Professional Corporation

By 
DOUGLAS M. CAMPBELL
Attorneys for Petitioner

LAW OFFICES OF
MARK A. SMITH
A PROFESSIONAL
CORPORATION
24691 RAYMOND WAY
SUITE 100
LAKE FOREST-ALTORO,

MARK A. SMITH,

Petitioner,

vs.

AL OLSON, etc., et al.,

Respondents

PROOF OF SERVICE BY MAIL
(CCP 1013a., 2015.5)

No. _____

I am a citizen of the United States and a resident of the County of Orange; I am over the age of eighteen years and not a party to the within action; my business address is: 24551 Raymond Way, Suite 150, Lake Forest-El Toro, California 92630. On June 10, 1982, I served the within

PETITION FOR WRIT OF MANDATE, WITH SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

and an unsigned copy of this Proof of Service by Mail on the interested parties in said action; by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Lake Forest-El Toro, California 92630 addressed as follows:

AL OLSON
REGISTRAR OF VOTERS
OF ORANGE COUNTY
1300 South Grand Avenue
Santa Ana, California 92705

MARCH FONG EU
SECRETARY OF STATE
1230 J Street
Sacramento, California 95814

I declare under penalty of perjury, that the foregoing is true and correct.
Executed on June 10, 1982 at Orange County, California.

Jeannine Baker
JEANNINE BAKER

LAW OFFICES OF
MARK A. SMITH

APPENDIX C, for PETITION 82-157, and INJUNCTION A-102

MARK A. SMITH v. AL OLSON and MARCH FONG EU

SUPREME COURT OF THE STATE OF CALIFORNIA

MARK A. SMITH, Petitioner, v. AL OLSON, REGISTRAR OF VOTERS OF ORANGE COUNTY and MARCH FONG EU, SECRETARY OF STATE OF THE STATE OF CALIFORNIA, Respondents.	)	Civ. No. L.A. 31592

RECEIVED
AUG 14 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

RETURN BY WAY OF ANSWER TO PETITION FOR ALTERNATIVE WRIT OF MANDATE AND PROHIBITION and POINTS AND AUTHORITIES IN OPPOSITION TO PETITION FOR ALTERNATIVE WRIT OF MANDATE AND PROHIBITION

ANTHONY L. MILLER, Chief Counsel
RICHARD B. MANESS, Staff Counsel
WILLIAM P. YEE, Staff Counsel
1230 J St.
Sacramento, California 95814
(916) 445-6371

Attorneys for Respondent
MARCH FONG EU

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SUPREME COURT OF THE STATE OF CALIFORNIA

MARK A. SMITH, Petitioner, v. AL OLSON, REGISTRAR OF VOTERS OF ORANGE COUNTY and MARCH FONG EU, SECRETARY OF STATE OF THE STATE OF CALIFORNIA, Respondents.	Civ. No. L.A. 31592

RETURN BY WAY OF ANSWER TO PETITION FOR ALTERNATIVE WRIT OF MANDATE AND PROHIBITION

COMES NOW RESPONDENT MARCH FONG EU, SECRETARY OF STATE OF THE STATE OF CALIFORNIA, who answers the petition on file as follows:

1. Based on lack of information and belief, denies each and every allegation set forth in Paragraphs 1, 17, 18 and 19 of the Petition.

2. Admits the allegations set forth in Paragraphs 2, 3, 4, 6, 7, 8, 9, 10, 11, 13 and 14 of the Petition.

3. Answering Paragraph 5 of the Petition, denies the allegation that Petitioner was a registered "independent" prior to the time the California Supreme Court ordered the reapportioned congressional district into effect. As to the remaining allegations in Paragraph 5 of the Petition, admits each and every allegation therein.

4. Answering Paragraph 12 of the Petition, admits that Petitioner was required to disaffiliate himself from any qualified

political party prior to June 8, 1981. As to the remaining allegation in Paragraph 12 of the Petition, denies each and every allegation therein.

5. Answering Paragraph 15 of the Petition, admits the allegation that 8,279 signatures of registered voters are needed to qualify an independent candidate for the November General Election ballot for the office of Representative in Congress, 43rd District. As to the remaining allegations in Paragraph 15 of the Petition denies each and every allegation therein on grounds of lack of information and belief.

6. Answering Paragraph 16 of the Petition, denies the allegations that Respondent Secretary of State has not complied with the requirements of Elections Code section 6831 when calculating the number of signatures required to qualify for the ballot as an independent candidate for Representative in Congress. As to the remaining allegation in Paragraph 16 of the Petition, admits each and every allegation therein.

Wherefore, Respondent Secretary of State prays that:

1. The petition for an alternative writ of mandate be denied;

2. No writ of prohibition be issued to enjoin Respondent from enforcing Elections Code sections 6830 subdivision (c) and 6831; and

/

/

/

/

3. Other relief be granted that the Court considers proper.

DATED: June 21, 1982.

Respectfully submitted,

ANTHONY L. MILLER, Chief Counsel
RICHARD B. MANESS, Staff Counsel
WILLIAM P. YEE, Staff Counsel

By _____
WILLIAM P. YEE
Staff Counsel

Attorneys for Respondent
MARCH FONG EU

SUPREME COURT OF THE STATE OF CALIFORNIA

MARK A. SMITH, Petitioner, v. AL OLSON, REGISTRAR OF VOTERS OF ORANGE COUNTY and MARCH FONG EU, SECRETARY OF STATE OF THE STATE OF CALIFORNIA, Respondents.	Civil No. L.A. 31592

POINTS AND AUTHORITIES IN OPPOSITION TO PETITION FOR ALTERNATIVE WRIT OF MANDATE AND PROHIBITION

TO THE HONORABLE ROSE ELIZABETH BIRD, CHIEF JUSTICE, AND TO THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF CALIFORNIA:

RESPONDENT SECRETARY OF STATE MARCH FONG EU hereby opposes the issuance of the writs prayed for in the above entitled action for the reasons set forth below:

INTRODUCTION

Petitioner in the above entitled action seeks an alternative writ of mandate from this court to compel respondents to issue him independent nomination papers for the office of Representative in Congress, 43rd District. Respondent Registrar of Voters has refused to issue Petitioner nomination papers because Petitioner is ineligible to seek a ballot position on the November General Election ballot as an independent candidate pursuant to Elections Code section 6830 subdivision (c). (Pet., ¶ 5.) Petitioner seeks an order from this court to enjoin

Respondents from enforcing the provision of Elections Code section 6830 subdivision (c) which requires Petitioner as an independent candidate not to have been affiliated with any qualified political party presently or at any time during the one year preceding the June 1982 Primary Election.

Petitioner also seeks an order from this court to enjoin Respondents from enforcing the provisions of Elections Code section 6831 which requires independent candidates to submit nomination papers signed by a specified number of registered voters in order to qualify for the November General Election.

I

PETITIONER IS BARRED FROM SEEKING PARTISAN OFFICE AS AN INDEPENDENT CANDIDATE PURSUANT TO ELECTIONS CODE SECTION 6830 subdivision (c)

Candidates seeking a ballot position for partisan office on the November 2, 1982 General Election ballot must obtain, circulate and file independent nomination papers with the sufficient number signatures of registered voters from June 7 through August 6. Elections Code sections 6830, 6831, 6833 and 6864.

Elections Code section 6830 provides in pertinent part that:

> "Each candidate . . . shall file a nomination paper which shall contain:
>
> (c) A statement that the candidate is not, and was not at any time during the one year preceding the immediately preceding primary election at which a candidate was nominated for the office mentioned in the nomination paper, registered as affiliated with a political party qualified under the provisions of Section 6430 . . ."

By application of this statute, an independent candidate

for a partisan office must not have been registered as affiliated with a qualified political party since June 8, 1981. Petitioner was registered as affiliated with the Republican Party since July 30, 1973 (see exhibit A). It was not until April 5, 1982 that Petitioner changed his party affiliation to decline to state and as such, removed himself from affiliation with any qualified party under the provisions of Elections Code section 6430 (see exhibit B). Since Petitioner waited until April 5 to disaffiliate himself from a qualified party, he is ineligible to qualify for the ballot as an independent candidate.

The constitutionality of the application of Election Code section 6830 subdivision (c) was directly addressed by the United States Supreme Court in Storer v. Brown (1974) 415 U.S. 724. In Storer v. Brown, Appellants Storer and Frommhagen were disqualified under Elections Code section 6830 (d) (precursor to section 6830 (c)) for ballot status as independent candidates for Congress in the 1972 California elections because they were affiliated with a qualified party up to six months before the June primary election. It should be noted that the 1972 primary election was conducted in court ordered reapportioned congressional districts following the 1970 census. See Legislature v. Reinecke (1972) 6 Cal.3d 595, 603-604.

The court in Storer defined the purpose and state policy behind section 6830(c) as that of protecting the direct primary process by refusing to recognize independent candidates who do not make early plans to leave a party and take the alternative course to qualify for the general election ballot. In this respect, the

one-year party disaffiliation works against independent candidacies prompted by short-range political goals, pique, or personal quarrel. It is also a substantial barrier to a party fielding an "independent" candidate to capture and bleed off votes in the general election that might well go to another party. (415 U.S. 724, 735.)

In its decision, the court held that the one-year party disaffiliation provision furthered a compelling state interest and was not unconstitutional. Thus Appellant Storer and Frommhagen were properly barred from the ballot as a result of its application. To quote Justice White and the majority opinion:

> "It appears obvious to us that the one-year disaffiliation provision furthers the State's interest in the stability of its political system. We also consider that interest as not only permissible, but compelling and as outweighing the interest the candidate and his supporters may have in making a late rather than an early decision to seek independent ballot status." 415 U.S., at 736.

Petitioner in the instant action alleges that the one-year party disaffiliation provision works as a burden by forcing him to disaffiliate himself from a qualified party prior to the time congressional reapportioned districts are known and implemented for the 1982 Primary Election. Such was the case in Storer following the 1970 reapportionment of the congressional districts. Since Petitioner failed to disaffiliate himself from the Republican party until April 5, 1982 (Exhibit B) he now petitions this court to disregard the holding in Storer v. Brown, supra, which dealt with the identical legal issues regarding the application of the one-year party disaffiliation provision.

Respondent Secretary of State contends that the application of the one-year party disaffiliation provision under

Elections Code section 6830 subdivision (c) properly bars Petitioner from receiving nomination papers as an independent candidate for the 43rd Congressional District at the November 2, General Election.

II

RESPONDENT SECRETARY OF STATE HAS PROPERLY CALCULATED THE SIGNATURE REQUIREMENT PURSUANT TO ELECTIONS CODE SECTION 6831

Petitioner's second argument attacks the implementation of Elections Code section 6831 relating to the number of signatures of registered voters needed to qualify an independent candidate for the November General Election ballot.

Elections Code section 6831 provides in pertinent part that:

> "Nomination papers for an office, other than a statewide office, shall be signed by the voters of the area for which the candidate is to be nominated, not less in number than 3 percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election . . ."

Petitioner contends that at the close of registration prior to the 1980 General Election, the newly apportioned 43rd Congressional District was not in existence and as such, the number of registered voters in this area cannot be determined to calculate the number of signatures of registered voters needed to qualify Petitioner as an independent candidate for the November General Election. Therefore, Petitioner submits that he should not be required to submit nomination papers signed by a specified number of registered voters as calculated by Respondent Secretary of State.

/

Respondent Secretary of State submits to this court that she has properly calculated the specified number of signatures needed to qualify an independent candidate for the November General Election ballot as required by section 6831 for each of the 45 Congressional Districts as ordered by this court in Assembly v. Deukmejian (1982) 30 Cal.3d 638, 678. The method selected to calculate the signature requirement is based upon the most reasonable method available to reflect the present area of the newly reapportioned 43rd Congressional District as of the last report of registration prior to the 1980 General Election. (See Declaration of William N. Durley.)

Respondent Secretary of State asserts that the legislative scheme behind the application of Elections Code section 6831 is eminently reasonable in view of the state's interest in avoiding a "laundry list" ballot by requiring prospective independent candidates to demonstrate the seriousness of their candidacy. Cross v. Eu (N.D. California, 1977) 430 Fed.Supp. 1036; Lubin v. Panish (1974) 415 U.S. 709; Bullock v. Carter (1972) 405 U.S. 134.

Based upon the challenge made by Petitioner in regards to the non-existence of the newly reapportioned 43rd Congressional District in 1980, it ia apparent that the Legislature when enacting Elections Code section 6831 did not consider the effects of reapportionment. Certainly it could be argued that the Legislature did not intend to waive the signature requirement for lack of an easy method to calculate the number of signatures needed to qualify an independent candidate for the ballot. Without any expressed statutory guidance to calculate the signature

requirement for congressional independent candidates, the Secretary of State should be allowed to use the most reasonable method available to carry out the Legislative intent to provide a procedure for serious independent candidates to qualify for the ballot at the November General Election.

Respondent Secretary of State submits that the signature requirement as calculated by her staff reasonably reflects 3 percent of the registered voters residing within the area of the newly reapportioned 43rd Congressional District and as such, substantially complies with the requirements of Election Code section 6831.

CONCLUSION

Respondent Secretary of State submits that Petitioner should be denied nomination papers for his candidacy as an independent candidate for the office of Representative in Congress, 43rd District pursuant to Elections Code section 6830 subdivision (c). Furthermore, independent candidates for the above office should be required to submit nomination papers with the number of signatures of registered voters as calculated by Respondent Secretary of State in compliance with the intent of Elections Code section 6831.

DATED: June 21, 1982.

Respectfully submitted,

ANTHONY L. MILLER, Chief Counsel
RICHARD B. MANESS, Staff Counsel
WILLIAM P. YEE, Staff Counsel

By _____
WILLIAM P. YEE, Staff Counsel

Attorneys for Respondent
MARCH FONG EU

ANGE OF ORANGE COUNTY REGISTRATION

Change of Name (Former Name)

Change of Address (Former Address)

Change of Party ☐ Other

quest cancellation of my current registration

(Office Use)

F.V.

R.D.

F.V.

R.D.

ORIGINAL No. B 134849

(Office Use Only)
Precinct Number 42-308

Cancelled Date Prec.

☐ Transfer ☐ Failure to Vote
☐ Duplicate ☐ Party Change
☐ Deceased ☐ Occupation Change
☐ Cancellation ☐ Name Change

Date Canceled 12-2-76

FFIDAVIT OF REGISTRATION

State of California
County of Orange } ss.

ndersigned affiant, being duly sworn, says: I will be at least 18 years of age at the time of the next succeeding election, izen of the United States 90 days prior thereto, and a resident of the County 90 days and of the Precinct 54 days next ding such election, and will be an elector of this County at the next succeeding election. (per CO)

I am ____ now registered as a voter in this State. (If now registered in another California county, fill out separate AFFIDAVIT OF CANCELLATION.)

My full name is ☒ MR. ☐ MRS. ☐ MISS (Print Name) (per DMV) ☐ SR. ☐ JR.

SMITH (Last Name) MARK A. (First name & Middle Initial or First Initial & Middle Name) (Other)

My residence is 1719 ~~25131 VESPUCCI RD~~ (House Number) Francis (Street Name) Dr (St., Av., Dr., Pl., Ln., etc.) 24761 Rollingwood Rd (Space or Apt. No.)

~~Anaheim Lac. NA HILLS~~ (City or Town) El Toro

My mailing address is Same (If same, write SAME)

I intend to affiliate at the ensuing primary election with the REPUBLICAN (If affiliation is not given, write "Declines to State.") Party.

My occupation is Attorney 7. My Social Security No. is 555-16-0157

I was born in California (State or Foreign Country) on April 17, 1945 (Month, Day, Year) 9. My height is 6 ft. 4 in.

I acquired citizenship by: (Check method and complete the indicated entry.)

☐ a. Decree of Court (1)
☐ b. Father's Naturalization (2)
☐ c. Mother's Naturalization (2)
☐ d. Citizenship of Parent (2)
☐ e. Marriage to a citizen prior to September 22, 1922. (1 and 2)
☐ f. Naturalization of my husband prior to September 22, 1922. (1 and 2)
☐ g. Act of Congress
☐ h. By Treaty

(1) (City, State and Date)

(2) (Name of Father, Mother or Husband)

I have not been convicted of a felony which disqualifies me from voting. (Not all felony convictions will disqualify you from voting.)

I can ____ mark my ballot by reason of

(State physical disability, if any)

X (Affiant Sign in Full Above)

Residence 1719 FRANCIS DR

City or Town ANAHEIM, CAL

Subscribed and Sworn To Before Me

Date ~~February 15~~ JUN 20 1974 ~~JUL 20 1977~~ (Month) (Day) 1972

DAVID G. HITCHCOCK, Registrar of Voters

By Robert M. Westover Asst. No. 0190
Deputy Registrar

PETITION RECORD

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
76	77	78	79	80	81	82	83	84	85	86	87	88	89	90

DRES-5

REGISTRAR OF VOTERS • ORANGE COUNTY, CALIFORNIA •

This instrument is a correct copy of the original on file in this office.

Attest June 16 19 82
REGISTRAR OF VOTERS
County of Orange

By Charlene Jaggard Deputy

Exhibit A

Mark	Allan	Smith

1 Residence - Residencia (No. - Núm., Street - Calle, Apt. No. - Núm. del Apt.)
24761 Rollingwood Rd.

City - Ciudad: El Toro | County - Condado: Orange | Zip Code - Zona Postal: CA 92630

2 If no street address, describe location of residence: (cross streets, route, box, section, township, range, etc.) - Si la calle no tiene núm. describa la localidad: (Calles que atraviesan, etc.)
N/A

3 Mailing Address (if different) - Dirección Postal (si es diferente)
24551 Raymond Way, Suite 150

City - Ciudad: El Toro | State - Estado: CA | Zip Code - Zona Postal: 92630

4 Date of Birth - Fecha de Nacimiento: April 17, 1945 (mo. / day / yr. - año)

5 Occupation - Profesión: Attorney

6 Birthplace - Lugar de Nacimiento
California
(Name of U.S. State or Foreign Country - Estado de EE.UU. o país Extranjero)

7 Political Party - Partido Político (Check one) (Indique uno)
- ☐ American Independent Party
- ☐ Democratic Party
- ☐ Libertarian Party
- ☐ Peace and Freedom Party
- ☐ Republican Party
- ☒ Decline to State - Se niega a declarar
- ☐ Other - Otro _____ (Specify) (Explique)

8 Telephone (Optional) - Teléfono (Opcional)
714/770-7012

9 I prefer election materials in - Prefiero materiales electorales en:
(Check one) (Indique uno)
- ☒ English
- ☐ Español

I am a citizen of the United States and will be at least 18 years of age at the time of the next election. I am not imprisoned or on parole for the conviction of a felony. I certify under penalty of perjury under the laws of the State of California, that the information on this affidavit is true and correct.

Soy ciudadano de los Estados Unidos y tendré por lo menos 18 años de edad para la próxima elección. No estoy en la cárcel ni en libertad bajo palabra por un crimen de un delito grave. Juro bajo pena de perjurio bajo las leyes del Estado de California que la información en esta Declaración Jurada es verdadera y correcta.

10 Signature - Firma: [signature] Date - Fecha: 4/2/82

WARNING
Perjury is punishable by imprisonment in State prison for two, three or four years. §126 Penal Code.

AVISO
El juramento en falso es castigable con encarcelamiento en la prisión estatal por dos, tres, o cuatro años. §126 Código Penal.

11 Signature of person assisting (if any) - Firma de la persona que le ayuda (si hay alguno)
N/A

12 PRIOR REGISTRATION: REGISTRO PREVIO:
If you are currently registered to vote fill in portion below. Si Ud. está empadronado actualmente para votar llene las siguientes áreas:

Name - Nombre: Mark Allan Smith
Former Address - Dirección Anterior: 24761 Rollingwood Road
City - Ciudad: El Toro | County - Condado: Orange | State - Estado: CA 92630
Political Party - Partido Político: Previously Republican | J604902

OFFICE USE: APR 0 5 1982 42 - 332

REGISTRAR OF VOTERS • ORANGE COUNTY, CALIFORNIA •

I certify that the foregoing instrument is a correct copy of the original on file in this office.
Attest: June 16 19 82
REGISTRAR OF VOTERS
County of Orange
By Charlene Jaggers Deputy

Exhibit B

DECLARATION OF WILLIAM N. DURLEY

I, WILLIAM N. DURLEY, declare:

1. I am an Assistant to the Secretary of State and Chief of the Secretary of State's Elections and Political Reform Division. In that capacity I am responsible for administering the Division and assisting the Secretary of State in carrying out her election-related duties.

2. I am familiar with the process for calculating the number of signatures of registered voters needed to qualify an independent candidate for the general election ballot pursuant to Elections Code section 6831. The following steps were undertaken to calculate this number for an independent candidate to qualify for the ballot for the office of Representative in Congress, 43rd District after the California Supreme Court ordered the reapportioned congressional districts into effect:

Step 1. The total statewide registration as of October 1980 was 11,361,020. This figure was divided by the 45 new congressional districts that California will be entitled to at the 1982 General Election. The quotient of 252,467 as derived from this calculation represents the average number of registered voters in each of the new 45 congressional districts.

Step 2. The 252,467 figure was then multiplied by 3% pursuant to Elections Code section 6831 to ascertain the number of signatures of registered voters needed to qualify an independent candidate in an average congressional district. The product of this calculation is 7574.

Step 3. The next step is to adjust the average number of required signatures in an average congressional district to represent the newly reapportioned 43rd congressional district in October of 1980. To make this adjustment, we need to calculate the average registration of each of the 45 congressional districts by dividing the latest statewide registration (January 1982) of 10,764,026 by 45 to give us the quotient of 239,201 registered voters in each of the newly reapportioned congressional districts.

Step 4. The actual registration of the new 43rd Congressional District is 261,454 registered voters. This figure is 9.30305% greater than the average congressional district calculated in step 3. Therefore, the average number of registered voters in each congressional district as determined by step 2 (7,574) should be increased by 9.30305% to accurately reflect the signature requirement of the new 43rd Congressional District based upon the 1980 report of registration. When calculated (7,574 x 1.0930305 = 8278.613), we obtain the product of 8279 signatures required to qualify an independent candidate for the ballot for the 43rd Congressional District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 21, 1982.

William N. Durley

WILLIAM N. DURLEY

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and am employed in the of Sacramento, State of California. I am over the age of 18 t a party to the within action. My business address is that of ary of State, Elections Division, 1230 J Street, Sacramento, rnia 95814.

On June 21, 1982, I served the within

RETURN BY WAY OF ANSWER TO PETITION FOR ALTERNATIVE WRIT OF MANDATE AND PROHIBITION and POINTS AND AUTHORITIES IN OPPOSITION TO PETITION FOR ALTERNATIVE WRIT OF MANDATE AND PROHIBITION

parties in said action or proceeding by depositing a true hereof enclosed in a sealed envelope with postage thereon fully d in the United States mail at Sacramento, California, addressed attorney(s) of record for said parties as follows:

Douglas M. Campbell
24551 Raymond Way, Suite 150
Lake Forest-El Toro, CA 92630

Al Olson
Registrar of Voters
of Orange County
1300 South Grand Ave.
Santa Ana, CA 92705

ted on June 21, 1982, at Sacramento, California.

(State) I declare under penalty of perjury, pursuant to California law, that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

_____

APPENDIX E, for PETITION 82-157,
and INJUNCTION A-102

MARK A. SMITH v. AL OLSON and
MARCH FONG EU

RECEIVED
AUG 14 1982
OFFICE OF THE
SUPREME COUR

REPORT OF REGISTRATION

MAY 1982

Compiled by:
MARCH FONG EU
SECRETARY OF STATE

RECEIVED
SUPREME CT. OF THE U.S.
POLICE OFFICE

PREFACE

This Report of Registration is prepared under authority of Elections Code section 6460. It reflects the number of persons registered to vote as of May 10, 1982, the close of registration for the June 8, 1982 Primary Election.

The number of persons registered to vote in this election, 11,090,694, is the greatest number of persons ever to register in a primary election in California. The previous record registration figure for a primary election was 10,697,491, set in May, 1980.

The next registration figures to be published will reflect the 29-day close of registration for the November 2, 1982 General Election.

MARCH FONG EU
Secretary of State

Please Note The Following Corrections to Colusa County's Registration Totals:

Total Registered Voters: 6,434

Democratic	3,403	Libertarian	9
Republican	2,557	Miscellaneous	3
American Independent	76	Decline to State	365
Peace and Freedom	21		

Although this correction changes the statewide total number of registered voters to 11,090,708, it was reported too late to be incorporated into this report.

REPORT OF REGISTRATION

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REGISTRATION OF VOTERS

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Counties by Assembly District 40

Counties by Board of Equalization District 44

REPORT OF REGISTRATION - AS OF MAY 10, 1982

NON-QUALIFIED PARTIES

COUNTY	EQUALITARIAN	LA RAZA UNIDA	MISC.	TOTAL
Alameda	0	132	2,329	2,461
Alpine	0	0	0	0
Amador	0	0	0	0
Butte	0	4	101	105
Calaveras	0	0	187	187
Colusa	0	0	3	3
Contra Costa	3	10	1,049	1,062
Del Norte	0	0	5	5
El Dorado	1	0	266	267
Fresno	1	163	529	693
Glenn	0	0	0	0
Humboldt	0	0	86	86
Imperial	0	11	8	19
Inyo	0	0	0	0
Kern	0	489	588	1,077
Kings	0	3	47	50
Lake	0	0	8	8
Lassen	0	0	3	3
Los Angeles	2	3,403	3,259	6,664
Madera	0	19	12	31
Marin	0	0	546	546
Mariposa	0	0	29	29
Mendocino	0	0	184	184
Merced	0	26	35	61
Modoc	0	0	2	2
Mono	0	0	2	2
Monterey	1	472	60	533
Napa	0	1	38	39
Nevada	0	0	21	21
Orange	8	153	708	869
Placer	0	6	20	26
Plumas	0	0	0	0
Riverside	0	107	557	664
Sacramento	0	108	37	145
San Benito	0	2	0	2
San Bernardino	2	75	158	235
San Diego	1	363	1,023	1,387
San Francisco	0	104	2,763	2,867
San Joaquin	0	40	172	212
San Luis Obispo	0	6	75	81
San Mateo	0	15	266	281
Santa Barbara	0	33	293	326
Santa Clara	0	385	241	626
Santa Cruz	0	14	229	243
Shasta	0	0	71	71
Sierra	0	0	0	0
Siskiyou	0	0	17	17
Solano	0	3	52	55
Sonoma	0	4	317	321
Stanislaus	0	53	514	567
Sutter	0	3	1	4
Tehama	0	0	46	46
Trinity	0	0	99	99
Tulare	0	0	81	81
Tuolumne	0	0	19	19
Ventura	0	664	1,169	1,833
Yolo	0	12	121	133
Yuba	0	1	8	9
TOTAL	19	6,884	18,454	25,357

REPORT OF REGISTRATION - AS OF MAY 10, 1982 (E-29)
REGISTERED VOTERS BY COUNTY

POLITICAL SUBDIVISION	DEMOCRATIC	REPUBLICAN	AMERICAN INDEP	LIBERTARIAN	PEACE AND FREEDOM	MISC	DECLINED TO STATE	TOTAL REGISTERED VOTERS
ALAMEDA County	375,441	145,549	6,863	3,578	4,299	2,461	68,083	606,274
	61.9%	24.0%	1.1%	.6%	.7%	.4%	11.2%	
ALPINE County	297	252	18	7	3	0	133	670
	38.4%	37.6%	2.7%	1.0%	.4%		19.9%	
AMADOR County	7,168	4,553	219	36	14	0	997	12,987
	55.2%	35.1%	1.7%	.3%	.1%		7.7%	
BUTTE County	38,238	33,666	1,612	362	465	105	9,618	83,666
	45.6%	40.1%	1.7%	.4%	.6%	.1%	11.5%	
CALAVERAS County	6,438	5,155	192	38	46	187	747	12,793
	50.3%	40.3%	1.5%	.2%	.4%	1.5%	5.8%	
COLUSA County	3,399	2,550	76	9	20	3	363	6,420
	52.9%	39.7%	1.2%	.1%	.3%	(<.1%)	5.7%	
CONTRA COSTA County	199,121	131,508	4,867	1,344	1,300	1,062	35,962	375,344
	53.1%	35.0%	1.3%	.4%	.3%	.3%	9.6%	
DEL NORTE County	4,640	3,154	123	22	43	5	838	8,825
	52.6%	35.7%	1.4%	.2%	.5%	.1%	9.5%	
EL DORADO County	24,399	19,484	1,094	181	204	267	5,058	50,887
	48.3%	38.3%	2.1%	.4%	.4%	.5%	9.9%	
FRESNO County	123,757	68,744	2,745	381	633	693	13,526	210,449
	58.8%	32.7%	1.3%	.2%	.3%	.3%	6.4%	
GLENN County	5,083	4,000	121	15	10	0	721	9,950
	51.1%	40.2%	1.2%	.2%	.1%		7.2%	
HUMBOLDT County	34,938	20,409	1,220	392	483	86	8,220	65,748
	52.9%	31.2%	1.9%	.6%	.7%	.1%	12.6%	
IMPERIAL County	16,621	9,711	369	34	86	19	2,303	29,343
	56.6%	33.1%	1.3%	.1%	.3%	.1%	8.3%	
INYO County	4,464	4,669	139	26	33	0	988	10,319
	43.3%	45.2%	1.3%	.3%	.3%		9.6%	
KERN County	91,924	63,900	2,650	898	435	1,077	12,038	172,922
	53.2%	37.0%	1.5%	.5%	.3%	.6%	7.0%	
KINGS County	14,436	8,239	459	82	84	90	2,038	25,328
	57.0%	32.5%	1.8%	.1%	.3%	.2%	8.0%	
LAKE County	12,543	8,097	212	65	51	8	1,702	22,678
	55.3%	35.7%	.9%	.3%	.2%	(<.1%)	7.5%	
LASSEN County	5,555	3,184	165	16	16	3	905	9,850
	56.4%	32.3%	1.7%	.2%	.2%	(<.1%)	9.2%	
LOS ANGELES County	1,784,313	988,370	29,824	20,553	12,152	6,664	229,085	3,070,961
	58.1%	32.2%	1.0%	.7%	.4%	.2%	7.5%	
MADERA County	15,891	9,519	389	47	64	31	1,781	27,722
	57.3%	34.3%	1.4%	.2%	.2%	.1%	6.4%	
MARIN County	59,947	45,405	1,333	1,102	646	546	18,711	127,690
	46.9%	35.5%	1.2%	.9%	.5%	.4%	14.6%	
MARIPOSA County	3,152	2,602	123	23	27	29	632	6,590
	47.8%	39.5%	1.9%	.4%	.4%	.4%	9.6%	
MENDOCINO County	20,419	11,936	563	210	376	184	5,847	39,537
	51.6%	30.2%	1.4%	.5%	1.0%	.5%	14.8%	
MERCED County	30,712	15,251	737	62	173	61	4,325	51,321
	59.8%	29.7%	1.4%	.1%	.3%	.1%	8.4%	
MODOC County	2,655	2,090	71	11	37	2	303	5,169
	51.4%	40.4%	1.4%	.2%	.7%	(<.1%)	5.9%	
MONO County	1,895	2,089	95	16	32	2	775	4,904
	38.6%	42.6%	1.9%	.3%	.7%	(<.1%)	15.8%	
MONTEREY County	59,516	42,873	1,939	394	467	533	13,824	119,566
	49.8%	35.9%	1.6%	.3%	.4%	.4%	11.6%	
NAPA County	28,468	21,601	862	233	187	39	5,319	56,709
	50.2%	38.1%	1.5%	.4%	.3%	.1%	9.4%	
NEVADA County	14,715	13,880	425	344	144	21	3,291	33,020
	44.6%	42.0%	1.3%	1.6%	.4%	.1%	10.0%	
ORANGE County	414,183	472,063	12,163	17,299	3,849	869	97,013	1,016,444
	40.7%	46.4%	1.2%	1.7%	.3%	.1%	9.5%	

REGISTERED VOTERS BY COUNTY

POLITICAL SUBDIVISION	DEMOCRATIC	REPUBLICAN	AMERICAN INDEP.	LIBERTARIAN	PEACE AND FREEDOM	WISC	DECLINED TO STATE	TOTAL REGISTERED VOTERS
PLACER County	36,127	25,369	1,197	348	237	36	6,826	70,130
	51.5%	36.5%	1.7%	.5%	.3%	(<.1%)	9.4%	
PLUMAS County	5,305	3,520	165	54	40	8	948	10,012
	53.0%	35.2%	1.6%	.5%	.4%		9.5%	
RIVERSIDE County	150,491	124,729	4,721	1,944	927	664	26,514	309,990
	48.5%	40.2%	1.5%	.6%	.3%	.2%	8.6%	
SACRAMENTO County	249,977	134,411	6,926	1,735	1,983	471	41,471	436,944
	57.2%	30.8%	1.6%	.4%	.4%	.1%	9.5%	
SAN BENITO County	5,882	3,824	173	30	36	2	825	10,772
	54.6%	35.5%	1.6%	.3%	.3%	(<.1%)	7.7%	
SAN BERNARDINO County	184,627	141,892	6,308	2,105	1,095	239	34,739	371,001
	49.8%	38.2%	1.7%	.6%	.3%	.1%	9.4%	
SAN DIEGO County	384,149	358,843	14,734	6,900	2,880	1,387	111,256	879,749
	43.7%	40.8%	1.7%	.7%	.3%	.2%	12.6%	
SAN FRANCISCO City & County	213,798	70,120	3,350	4,131	3,414	2,867	46,783	344,483
	62.1%	20.4%	1.0%	1.2%	1.0%	.8%	13.6%	
SAN JOAQUIN County	86,091	53,815	1,931	332	419	212	11,578	154,378
	55.8%	34.9%	1.3%	.2%	.3%	.1%	7.5%	
SAN LUIS OBISPO County	36,849	35,956	1,418	418	372	81	8,452	83,546
	44.1%	43.0%	1.7%	.5%	.4%	.1%	10.1%	
SAN MATEO County	149,968	97,945	3,330	1,447	998	281	29,514	283,523
	52.9%	34.5%	1.2%	.5%	.4%	.1%	10.4%	
SANTA BARBARA County	78,228	64,360	2,984	957	821	326	23,356	171,232
	45.7%	37.7%	1.7%	.6%	.5%	.2%	13.6%	
SANTA CLARA County	318,830	213,323	9,527	4,109	2,675	626	78,535	627,625
	50.8%	34.0%	1.5%	.7%	.4%	.1%	12.5%	
SANTA CRUZ County	53,275	32,789	1,614	1,002	1,401	243	15,013	105,337
	50.6%	31.1%	1.5%	1.0%	1.3%	.2%	14.3%	
SHASTA County	31,171	21,335	809	189	187	71	4,941	58,703
	53.1%	36.3%	1.4%	.3%	.3%	.1%	8.4%	
SIERRA County	1,330	782	41	11	7	0	282	2,453
	54.2%	31.9%	1.7%	.4%	.3%		11.5%	
SISKIYOU County	11,392	7,469	380	71	94	17	1,819	21,242
	53.6%	35.1%	1.8%	.3%	.4%	.1%	8.6%	
SOLANO County	64,083	30,147	1,614	368	384	55	11,758	108,409
	59.1%	27.8%	1.5%	.3%	.4%	.1%	10.8%	
SONOMA County	81,732	55,219	2,358	747	1,788	321	19,947	162,032
	50.4%	34.1%	1.5%	.5%	1.1%	.2%	12.3%	
STANISLAUS County	61,343	38,376	1,580	282	326	367	7,741	110,615
	55.4%	34.7%	1.4%	.3%	.3%	.3%	7.0%	
SUTTER County	11,561	10,233	334	72	57	4	1,748	24,012
	48.1%	42.6%	1.4%	.3%	.2%	(<.1%)	7.3%	
TEHAMA County	11,099	7,626	466	48	59	46	1,621	20,965
	52.9%	36.4%	2.2%	.2%	.3%	.2%	7.7%	
TRINITY County	3,535	2,393	151	36	31	99	697	6,931
	50.9%	34.5%	2.2%	.5%	.4%	1.4%	10.1%	
TULARE County	50,088	36,951	1,543	160	331	81	7,588	96,742
	51.8%	38.2%	1.6%	.2%	.3%	.1%	7.8%	
TUOLUMNE County	11,621	7,915	293	66	99	19	1,836	21,849
	53.2%	36.2%	1.3%	.3%	.5%	.1%	8.4%	
VENTURA County	109,849	97,613	3,364	890	751	1,833	21,795	236,095
	46.5%	41.3%	1.4%	.4%	.3%	.8%	9.2%	
YOLO County	36,824	20,284	1,032	318	407	133	7,823	66,821
	55.1%	30.4%	1.5%	.5%	.6%	.2%	11.7%	
YUBA County	11,432	6,577	459	74	94	9	2,372	21,017
	54.4%	31.3%	2.2%	.4%	.4%	(<.1%)	11.3%	
STATE TOTALS....	5,854,939	3,868,927	144,490	78,991	47,184	25,683	1,072,924	11,090,694
	52.8%	34.9%	1.3%	.7%	.4%	.2%	9.7%	